

AMENDED IN ASSEMBLY JUNE 13, 2002

AMENDED IN SENATE MAY 6, 2002

AMENDED IN SENATE APRIL 10, 2002

**SENATE BILL**

**No. 2032**

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**Introduced by Senator Monteith**

**(Coauthors: Senators Haynes, Johannessen, Knight, Morrow,  
and Oller)**

(Coauthors: Assembly Members Ashburn, Briggs, Bill Campbell,  
Cogdill, Hollingsworth, Leach, Maldonado, Robert Pacheco,  
Strickland, Wyland, and Zettel)

February 22, 2002

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An act to add Section 1353.5 to the Civil Code, relating to the United States flag.

LEGISLATIVE COUNSEL'S DIGEST

SB 2032, as amended, Monteith. Display of the United States flag: common interest developments.

The Davis-Stirling Common Interest Development Act sets forth certain requirements for declarations and governing documents of common interest developments. *Existing law requires that an association manage a common interest development, and requires the association to fulfill certain procedures in order to impose disciplinary action upon a member for a violation of the governing documents or rules of the association.*

This bill would prohibit any declaration or other governing document of a common interest development from limiting or prohibiting, or being construed to limit or prohibit, the display of the flag of the United States, *as defined*, except as required for the protection of the public

health or safety, *in or on an owner's separate interest or within a portion of the common area used exclusively by the owner, as specified.* It would also provide that, in any action brought to enforce these provisions, the prevailing party shall be awarded reasonable attorneys' fees and costs.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. It is the intent of the Legislature in enacting this  
2 act to provide for all of the following:

3 (a) That homeowners throughout the state shall be able to  
4 display a flag of the United States.

5 (b) That owners of a separate interest in a common interest  
6 development shall be specifically included within the group of  
7 owners and occupiers of land with a legal right to display a flag of  
8 the United States, as defined by subdivision (b) of Section 434.5  
9 of the Government Code.

10 (c) That a homeowner who is unlawfully prohibited from  
11 flying a flag of the United States shall recover those costs and  
12 attorneys' fees incurred in enforcing his or her right to do so.

13 SEC. 2. Section 1353.5 is added to the Civil Code, to read:

14 1353.5. (a) Except as required for the protection of the public  
15 health or safety, no declaration or other governing document shall  
16 limit or prohibit, or be construed to limit or prohibit, the display  
17 of the flag of the United States by an owner *on or in the owner's*  
18 *separate interest or within the owner's exclusive use common area,*  
19 *as defined in Section 1351.*

20 (b) *For purposes of this section, "display of the flag of the*  
21 *United States" means a flag of the United States made of fabric,*  
22 *cloth, or paper displayed from a staff or pole or in a window, and*  
23 *does not mean a depiction or emblem of the flag of the United*  
24 *States made of lights, paint, roofing, siding, paving materials,*  
25 *flora, or balloons, or any other similar building, landscaping, or*  
26 *decorative component.*

27 (c) In any action to enforce this section, the prevailing party  
28 shall be awarded reasonable attorneys' fees and costs.

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